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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/164,509	09/30/1998	REINHARD KLEMM	KLEMM-2	6743

7590 10/17/2003  
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LOCUST VALLEY, NY 11560

EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER 18
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2141

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**Application No.  
**09/164,509**Applicant(s)  
**Klemm**Examiner  
**Stephan Willett**Art Unit  
**2141**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED on 9/29/03 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: None
- Claim(s) objected to: None
- Claim(s) rejected: 1-29
- Claim(s) withdrawn from consideration: \_\_\_\_\_
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner:
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

KENNETH R. COULTER  
PRIMARY EXAMINER

Art Unit: 2141

## **DETAILED ACTION**

### ***Response to Amendment***

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.
2. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.
3. Applicant admits the claims include "for the resources referenced in a currently displayed Web page", Paper No. 16, Page 8, lines 11-12. Pursuant to MPEP 2111.02, the weight afforded the preamble of the claim is many times not that clear. In the present claims, the preambles regarding "the resources referenced in a currently displayed Web page" has been ignored in interpreting the claims. However, in an effort to further prosecution, this element along with additional elements listed in the amendments remarks section can be included in the body of the independent claims to clarify the arguments for the claims. For example, Paper No. 16 cites on page 9 elements such as "document sizes", "recorded average resource size", on page 10 "linear weighing functions", "baseline of actually fetching a document" and a scenario on page 11 where the requests and responses are combined into a request packet. Lastly, the examiner's previous arguments remain were applicable. "Explicitly does not teach" only means with regard to exact words, but the teachings surely includes inherent, implicit, implied and obvious teachings. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Art Unit: 2141

***Conclusion.***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

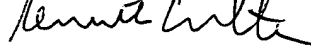
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

KENNETH R. COULTER

PRIMARY EXAMINER



October 16, 2003